

OFFICE OF ADMINISTRATIVE HEARINGS STRATEGIC PLAN 2005-07 BIENNIUM

PRELIMINARY PLAN¹
MAY 3, 2004

MISSION OF THE OFFICE OF ADMINISTRATIVE HEARINGS

To hold fair and independent hearings for the public and for government agencies and to issue sound and timely decisions.

STATUTORY AUTHORITY: Ch. 34.12 RCW

BACKGROUND

1. Overview

The Office of Administrative Hearings (OAH) provides due process for the public by conducting independent hearings for state agencies. It provides the public with a means to appeal an agency decision and to have that decision reviewed in a prompt manner by an independent Administrative Law Judge (ALJ) who issues written Findings of Fact, Conclusions of Law, and an Order based on the evidence provided at a hearing.

Among the services that OAH provides are:

- Impartial and independent ALJs with expertise in both administrative and substantive law
- Accessible and economical hearings by telephone or in person
- Respectful, professional, and fair treatment of the parties
- Hearings which are scheduled promptly and conducted efficiently
- A fully developed record of testimony and exhibits from a hearing
- Researched and reasoned written decisions which are timely and understandable

Hearings vary from one-hour telephone hearings with pro se (unrepresented) appellants on unemployment insurance to extensive in-person hearings with attorneys on both sides regarding special education, adult family homes, or financial institutions, which may last several weeks and be spread over several months.

¹ Although submitted to OFM on this date, this document is labeled as a Preliminary Plan because we want to circulate it among OAH employees for review and comment before adopting it as a Final Plan internally.

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Since September 11, 2001, the dominant thrust of OAH activities has been to cope with increased caseload, particularly for unemployment insurance hearings. Caseload intake from CY 03 included 66,719 cases²:

- Employment Security Department (ESD) (unemployment insurance hearings): 42,532 cases
- Department of Social and Health Services (DSHS) (public assistance, child support, licensing, juveniles): 23,573 cases
- Superintendent of Public Instruction (SPI) (e.g., special education, student transfer, teacher certification): 243 cases
- Liquor Control Board (LCB) (liquor/tobacco licensing): 98 cases
- Department of Licensing (DOL) (business and professional licensing): 39 cases
- Department of Labor & Industries (e.g., contractors, electricians, wage issues): 245 cases
- 20 other state and 11 local agencies: 189 cases

The dominant theme of the 2001-03 biennium was to respond to the skyrocketing unemployment caseload while simultaneously making significant budget cuts in administration and DSHS caseload services. The dominant theme of the 2003-05 biennium has been a mad scramble to try to catch up with continued rapid increases in unemployment and DSHS cases and then to balance expected declines in unemployment cases. We expect the dominant theme of the 2005-07 biennium to be the process of restoring a balance in staffing and budget as the overall caseload returns to more normal levels. Instead of simply cutting positions, we want to make appropriate adjustments to increase quality and timeliness, some of which has been lost in the last few years because of the massive caseload.

2. Long-term Trends: Vision for Agency in the Year 2011

We began the strategic planning process by considering what the Office of Administrative Hearings (OAH) should look like in the year 2011, six years from the start of the next biennium. We asked all OAH employees to respond to three questions:

- (1) What process or feature would you like to see implemented or improved in your office in the next 2-3 years?
- (2) List 2-3 opportunities or goals that you would like to see OAH achieve by 2011.
- (3) What changes in staff/facilities/technology are needed to take advantage of these opportunities or to achieve these goals?

² Caseload statistics are derived from data through February 2004, subject to minor revisions in future.

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The input from 43 employees who responded to these questions became part of the basis for this strategic plan.

Our vision of OAH in 2011 is for the public to perceive that they have had a fair opportunity to present their case and be heard by a knowledgeable and impartial judge, even if the ultimate decision is against them. We want to be the best “central panel” hearings agency in the country, serving the public and a variety of other state agencies by independently providing fair, timely, and efficient administrative hearings that result in sound decisions, using appropriate technology while remaining accessible to persons who may lack technological skills and resources. (A central panel hearings agency is an independent entity which provides administrative hearings for a variety of other agencies, as opposed to providing hearings just within the agency in which it is located.)

Process for Conducting Hearings

The essence of due process is to provide notice and a meaningful opportunity to be heard. The format of the hearing is important because it is the hearing which provides the meaningful opportunity to be heard. We envision the continuation of a mixture of in-person and telephone hearings, with the addition of some video hearings by 2011.

In-person hearings. It is important to some appellants to have direct “in person” contact with the judge who decides their case. In-person hearings are particularly appropriate in cases with those pro se parties who have difficulty communicating, long or complex hearings, some hearings with interpreters, and some hearings based on credibility. (By rule, public assistance appellants in DSHS cases also currently have the right to convert to an in-person hearing upon request.) In-person hearings will be held in OAH hearing rooms (safer than using individual ALJ offices) and in non-OAH sites where convenience for participants and witnesses is a factor and it is easier for the judge to travel to the site rather than requiring everyone else to come to the judge.

Telephone hearings. Telephone hearings offer a practical and effective alternative to many in-person hearings. Telephone hearings are often more convenient for parties and require less travel for the parties and/or the judge. Telephone hearings allow coverage of multiple DSHS offices at the same time by one ALJ. They offer safety both for judges and for parties, since hostile parties can appear from different locations. They make telecommuting possible, including having ALJs conduct some hearings from their homes. In FY 2002, approximately 89% of unemployment hearings and 40% of DSHS hearings were conducted in whole or in part by telephone. By CY 2003, this had increased to 94% and 42% respectively. By 2011, we expect these percentages to increase further. We expect telephone hearings to become dominant as the typical format for short hearings with DSHS, although not to the same extent as is true today

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with unemployment hearings. At the same time, OAH does not expect nor desire to conduct only telephone hearings or go to a "telecenter" model for hearings.

Video hearings. One of the disadvantages of telephone hearings is the inability of the judge (and other parties) to see the witnesses. Although body language and demeanor may be factors in testimony, other practical considerations include seeing whether the witness has the proper documents, is understanding the process or paying attention, or is being coached. By 2011, video conferencing will be more conveniently available and at lower cost, but will not displace the convenience of telephone hearings.

Location of OAH Offices

Currently, OAH has nine offices in six cities: Everett, Olympia, Seattle, Spokane, Vancouver, and Yakima. Given the anticipated need for a mixture of in-person hearings in OAH facilities, in-person hearings "on the road" in other sites, a majority of telephone hearings, and some video hearings, we anticipate maintaining offices strategically located throughout the state. In the strategic plan submitted in July 2002, we indicated an intent to consolidate and relocate offices away from downtown Seattle by 2009. Although this is still possible, it is no longer considered a likely priority. In the current market, the discrepancy in rental rates between downtown Seattle and other areas of the state has dropped. The vast majority of staff in our downtown Seattle offices use public transportation to commute to work; this option would not be practical in virtually any other location. OAH has renewed leases for field offices in current locations in the Seattle-Everett area, but lined up lease termination dates and added cancellation clauses which would allow for relocating after 2005. However, there are no current plans to relocate the three field offices in the Seattle-Everett area.

Colocation of Olympia offices. OAH currently has three separate offices next door to one another in Olympia. We hope to colocate in a single location by the year 2011. There is a window of opportunity to do so now, but it will require additional funds to pay for the transactional costs.

Caseload

OAH assumes that the overall mixture of caseload by the year 2011 will remain similar to now, although there will be variation from agency to agency both in the volume and the scope and complexity of cases.

Unemployment appeals. Unemployment insurance cases have traditionally represented at least half of the OAH workload, both in volume of cases and in time and expenditures. In recent years, volume has ranged from a low of 25,237 cases (54.7% of total caseload) in FY 2000 to 42,532 (63.7%) in CY 2003. Funding has been entirely

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from the federal government through ESD based on the volume of production by OAH. However, federal funding is now being cut because of implementation of the Resource Justification Model (RJM) by the federal government and its impact on the Employment Security Department. The volume of unemployment cases in FY 2011 is likely to be lower than the record-setting volume of CY 2003 because of the cyclical nature of unemployment. Unemployment is still expected to be the highest volume caseload in 2011 and is still anticipated to be conducted primarily through telephone hearings with written ALJ decisions.

DSHS appeals. The DSHS hearings caseload (public assistance, child support, licensing, juveniles) has changed considerably over the past several years. In the past, the length and complexity of cases increased, but this was partially offset by some reduction in total volume. Now we are seeing rapid increases in volume as well as complexity, combined with new caseloads, the transfer of final decision-making authority from DSHS to OAH in most cases, and less support available from staff representing DSHS at hearings. Increased volume combined with cuts in budget and personnel have led to greater reliance on telephone hearings instead of in-person ones. OAH still has to provide coverage for a docket, even when cases settle at the last minute. Scheduling is already difficult because of the mix of long cases and short cases combined with the high frequency of last-minute settlements or withdrawals. This problem is likely to become even more difficult as the mix of cases becomes harder to manage. OAH has successfully implemented final decision-making authority and the reduction of review by the DSHS Board of Appeals for most non-licensing cases, although it has required an increase in OAH workload to manage motions for reconsideration.

Specialized ALJ panels. The mixture of cases from other agencies is likely to ebb and flow, as it has historically. However, the overall complexity and length of cases is likely to continue to increase. Because of increased complexity and the need for increased specialization by ALJs, OAH has moved to greater use of panels, in which a limited number of ALJs are assigned to a particular caseload. Panels allow greater specialization and are generally preferred by client agencies, but also make scheduling more difficult. Currently, OAH has nine ALJ panels for caseloads such as special education, insurance, or apprenticeships. Use of panels is expected to increase by 2011.

Staffing Patterns

Number of staff. OAH currently has 103 ALJs and 73 support staff employees. The ALJs include 13 full-time temporary ALJs and 17 pro tem (part-time, on-call) ALJs; the support staff include two temporary state employees. In addition, there are 11 support workers contracted from temporary employment agencies. By 2011, the number of

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employees should be slightly smaller, as caseload returns to a more normal pattern, barring unforeseen major additions or deletions.

Location of staff in Puget Sound area. Retention of support staff in the Seattle area has generally become increasingly difficult, although the job market for support staff in Seattle stabilized because of the downturn in the economy over the last several years. The availability of qualified ALJ candidates has been far higher in the Seattle and Olympia areas than anywhere else in the state. ALJs and support staff are dependent on public transportation to get to work in the Seattle area, although telecommuting has also increased.

Diversity. The diversity of OAH staff has consistently reflected the diversity of the population of the state of Washington, with the exception of Vietnam veterans among the predominantly female support staff. By the year 2011, the minority population in the state will be much higher. OAH is proud of its exceptional record in recruiting and retaining diversity within the legal profession and is committed to a continuous effort to maintain its leadership role.

ALJ salaries. ALJ salaries are likely to be a major issue by 2011 unless there is a significant legislative adjustment before then. The current top salary for an experienced line ALJ is \$66,372. Most ALJs have been in practice as an attorney or judge for at least 15 years. A line ALJ is an exempt position classified as an ALJ 3 and linked by the State Committee on Agency Officials' Salaries to a classified Board of Industrial Insurance Appeals Industrial Appeals Judge 2 (IAJ). In 2001, the Department of Personnel state salary survey identified IAJ salaries as 32.5% below market. By 2011, major salary increases may be required to recruit and retain ALJs.

Increased Efficiencies

By 2011, ongoing pressures to reduce costs in state government will continue to be paramount.

Technology. OAH ALJs have begun using voice recognition software on a pilot basis in several field offices to replace dictation. The results have been somewhat unpredictable - total success for some individuals and total failure for others. By 2011, the use of voice recognition software by ALJs is expected to have largely replaced the use of dictation. This will lessen the need for support staff for word processing, but the needs for support staff to set up increasingly complex case files and the needs for Information Technology specialists are likely to balance this. We assume that OAH will receive requests for hearings by electronic transmittal from agencies, exhibits will be entered into the record electronically through imaging, video hearings will become more practical, digital recordings will replace cassette tapes of hearings, and decisions will be

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prepared using voice recognition software and more templates and standard paragraphs. Instead of using three separate database programs for unemployment, DSHS, and other cases, by 2011 OAH expects to consolidate to a single system. This will require major long-term efforts in Information Technology.

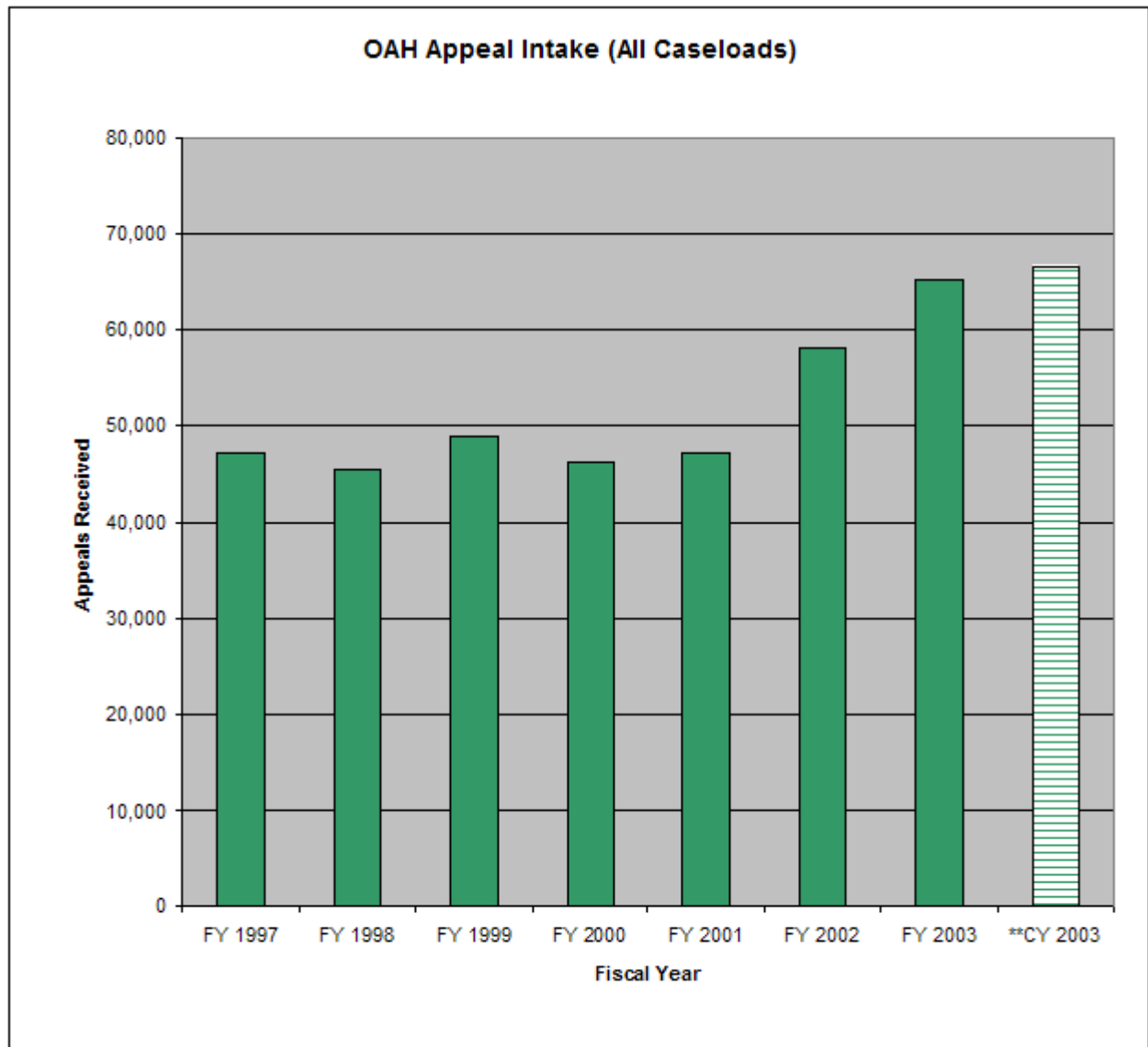
Rates. OAH currently bills the five agencies (ESD, DSHS, LCB, DOL, SPI) which have appropriations for the Administrative Hearings Revolving Fund on a reimbursement basis for designated costs. Other agencies are charged on an equivalent hourly basis for ALJ and support staff time. Since FY 1998, OAH has kept rates constant at \$80 per hour for ALJ time and \$45 per hour for support staff time because of greater efficiencies and because salaries for ALJs have not followed market increases for attorneys. OAH projects a rate increase to \$85 per hour for ALJs and \$47 per hour for support staff in FY 06. Rates would increase significantly if there were a major salary increase for ALJs.

3. Current Caseload Trends; Changes in Current Biennium

The 2001-03 and 2003-05 biennia have been characterized by enormous increases in caseload, particularly for unemployment insurance hearings. Total agency intake reached an all-time peak in July 2003, when OAH received 6,122 appeals in one month. The total volume for all caseloads is shown below:

FY 99	48,803
FY 00	46,137
FY 01	47,141
FY 02	58,940
FY 03	65,206
CY 03	66,719

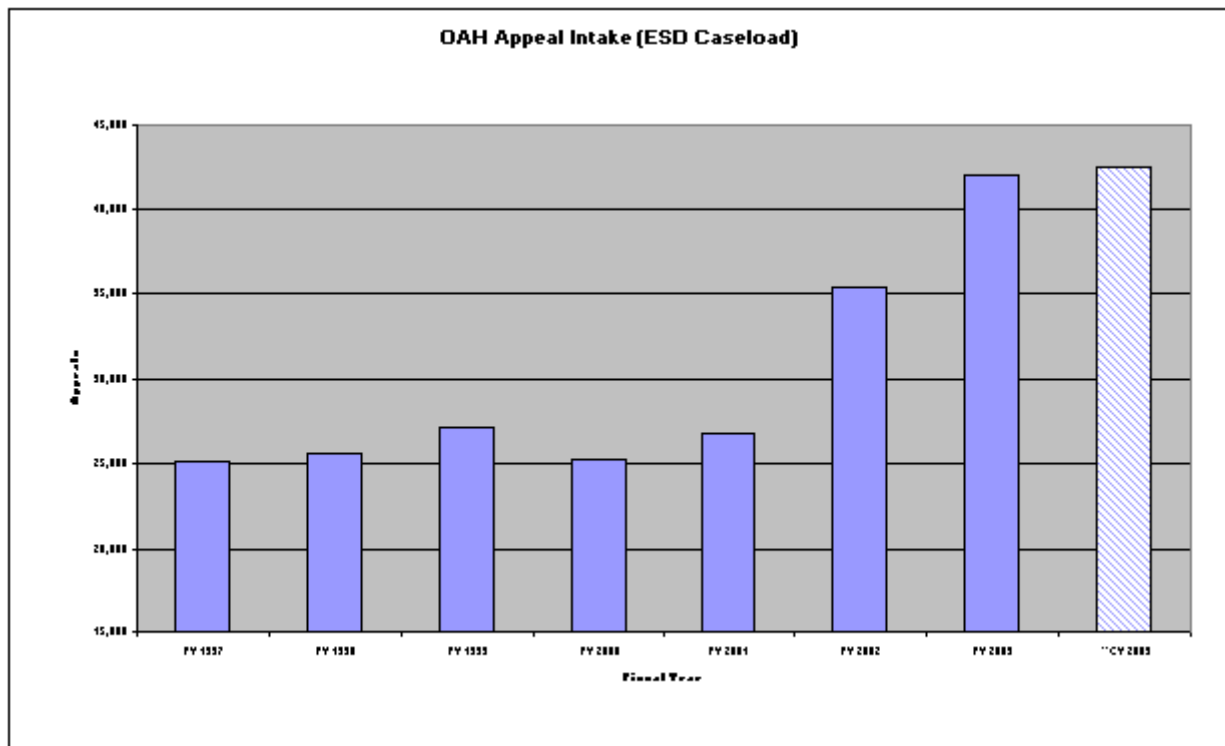
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Unemployment caseload. Intake of unemployment cases went from 25,237 in FY 2000 to 42,532 in CY 2003. Growth in the unemployment caseload (as well as the DSHS caseload) is shown below:

FY 99	27,165
FY 00	25,237
FY 01	26,720
FY 02	36,365
FY 03	42,045
CY 03	42,532



The increase in unemployment appeals skyrocketed following September 11, 2001. From April 2001 to September 2003 (30 consecutive months), intake for every single month exceeded the same month in the preceding year, typically by hundreds of cases per month. The all-time monthly record for intake was set in January 2003, when 3,947 Employment Security appeals were filed. The all-time monthly record for OAH production, the number of cases closed in a month, was set in October 2003 with 3,994 cases.

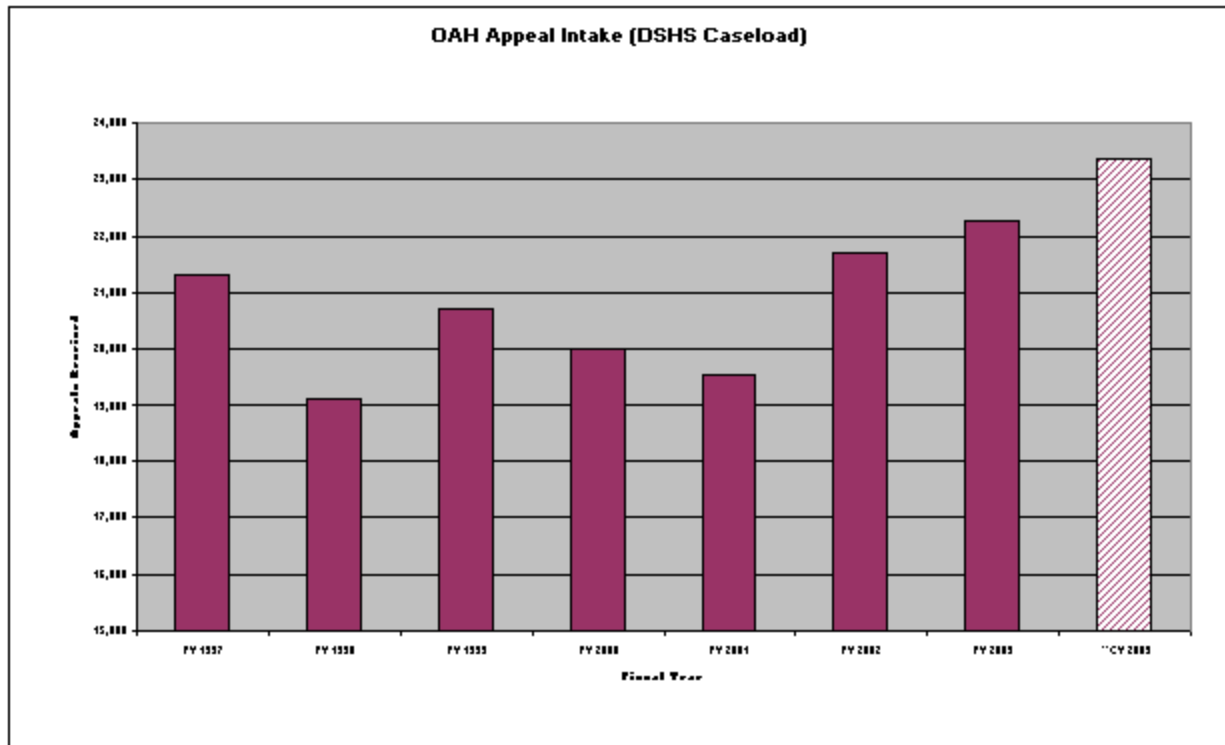
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It appears that unemployment appeals have finally begun to decline. From October 2003 to March 2004, intake for every month has been lower than the same month in the preceding year. The high volume of unemployment appeals led to a sizeable backlog and caused declines in OAH's timeliness. It required OAH to follow a corrective action plan last year with the federal government for failing to meet one of the federal timeliness requirements. OAH has been struggling to work through the backlog of unemployment cases.

DSHS caseload. The only portion of OAH's regular budget which derives from the state general fund comes from DSHS and, therefore, DSHS hearings have borne the brunt of OAH budget cuts. The long-term trend in DSHS caseload had been downward in the late 1990's, although the decline in volume had been offset by increase in complexity and length of cases. Starting with FY 2002, all measures of DSHS cases have been up. Total intake, which had declined from 20,027 in FY 2000 to 19,569 in FY 2001, increased 10.8% to 21,689 in FY 2002, then to 22,263 in FY 2003 and to 23,573 in CY 2003. Total DSHS caseload in FY 2004 is expected to be the largest volume in agency history, exceeding 24,000 cases. Trends in the caseload are shown below:

FY 99	20,730
FY 00	20,027
FY 01	19,569
FY 02	21,689
FY 03	22,263
CY 03	23,373

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Other caseloads. While the overall volume of other cases has declined slightly, the mix of lengthy and complex cases has increased, particularly in special education and the Energy Facility Site Evaluation Council (EFSEC). A single controversial EFSEC power plant decision can exceed the total number of hours spent on all of the hundreds of L&I cases.

Budget reductions. Although the overall agency budget has increased, OAH also made significant budget reductions, despite caseload pressures, in 2002 and 2003. Administration and DSHS appeals had to bear the brunt of budget cuts, whereas spending on unemployment appeals could not keep pace with the massive increase in caseload. Headquarters staff of 18 was reduced to 16. When the Human Resources Manager retired in October 2002, the position was left unfilled. The administrative infrastructure supporting OAH has been cut to the bone, which makes implementation of Washington Works in 2005 problematic, particularly Civil Service Reform and the HRMS system.

INTERNAL RESOURCE ASSESSMENT: STRENGTHS AND WEAKNESSES

People. OAH's most important resource is clearly the knowledgeable, professional, and dedicated staff who work for the agency. We place great emphasis on the hiring

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process for Administrative Law Judges (ALJs) because they are ultimately the ones who make the decisions in administrative hearings. As of May 1, 2004, OAH has 103 ALJs, including 73 permanent ALJs, 13 temporary full-time ALJs, and 17 pro tem ALJs (10 of whom are retirees).

OAH is particularly proud of its diversity record among ALJs. Among 86 permanent or full-time temporary ALJs, there are:

46 Females (53.5%)

21 Minorities (24.4%)

9 (10.5%) African American

6 (7.0%) Asian/Pacific American (including Chinese, Filipino, Japanese, Korean, Vietnamese)

5 (5.8%) Latino/Latina

1 (1.2%) Native American

In terms of experience and succession-planning among ALJs, there are 16 permanent ALJs with 20 or more years with OAH (which is only 22 years old) and 23 with 10 to 20 years experience. Combined with the availability of ten retirees available for pro tem work, this provides a solid base of experience and institutional memory among ALJs while still allowing for turnover and change.

There are far more challenges with experience and institutional memory among the support staff. In contrast to 39 ALJs with ten or more years of experience with the agency, among 84 support staff, there are only four with 20 or more years and ten with 10 to 20 years experience. Three of the field offices lack any support staff with ten or more years experience. Headquarters has major issues with succession planning for certain key support staff positions in which only one person has held a position for many years.

Moreover, with the limitations on FTEs in the last several years, OAH made extensive use of contract personnel from temporary employment agencies, reduced formal training, and was overwhelmed with trying to keep up with rapidly growing caseload. Even though we have begun the process of converting contract temps to state employee positions, OAH currently uses 11 contract temp positions. With the higher turnover among support staff, in too many instances contract temps have ended up as the primary trainers for other contract temps on essential OAH processes. This has placed an unfair burden both on the contract temps and on the regular support staff. In addition, IT staff has not had the opportunity to keep up with training on software upgrades. One of the greatest agency needs is to provide more training to agency support staff.

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Compensation and morale have also been factors affecting both ALJs and support staff. Workload has increased dramatically while salaries have remained frozen since 2001. Line ALJs, all of whom are attorneys and almost all of whom have at least ten years of legal experience, are currently paid a maximum of \$66,372 per year. The State Committee on Agency Officials' Salaries has linked ALJ salaries to those of an Industrial Appeals Judge 2, which in turn were identified as 32.5% below market in the 2001 state employee salary survey by the Department of Personnel. In 2003, two ALJs left OAH to work in a different state agency (OFM) because they could earn more money for less work there.

OAH is relatively decentralized and emphasizes field operations. The function of the administrative headquarters staff is to support the field offices which conduct the actual hearings and issue decisions, the core reasons for OAH's existence. With implementation of budget cuts beginning in the 01-03 biennium and continuing through this date, OAH cut its headquarters staff by two people as senior staff retired, reducing headquarters to four executive staff, six in fiscal management, facilities, purchasing, and human resources, and six in IT. Although it was appropriate to cut administration on a short-term basis, these cuts have proven not to be sustainable long-term, particularly with the change to Washington Works in the 05-07 biennium.

Offices and facilities. OAH has greatly improved its configuration of field offices over the last ten years. The Olympia SHS, Seattle SHS, and Yakima offices were remodeled to make better use of space and provide for much safer and visible hearing rooms (instead of requiring parties in hearings to walk through the working areas of offices to hold hearings in an ALJ's individual office). The Spokane offices consolidated and the Vancouver office relocated to new facilities which were designed for use in holding administrative hearings. Although some of the advantages of new office space have been temporarily lost because of overcrowding to accommodate more ALJs to handle the increased caseload, these new facilities generally provide much safer and more professional settings for hearings.

The biggest single weakness in facilities is the lack of consolidation or colocation among Headquarters and two field offices in Olympia, which exist on the second floor of one building, the second floor of an adjacent building, and the third floor of yet another adjacent building. This is confusing to customers, inefficient for use of space and technology (e.g., multiple servers and data transmission lines), requires extensive duplication of services (e.g., the reception function in three different buildings), and makes it difficult to function as a single agency. It would make far more sense to consolidate into a single building, but there are significant transactional costs.

Technology. OAH uses a network which is reasonably fast and generally reliable. However it relies on systems which are out of the mainstream and thus make it harder

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to communicate with other agencies. For example, OAH uses Novell instead of Microsoft for the network operating system, GroupWise instead of Outlook for e-mail, WordPerfect instead of Word for word processing, and the Corel suite (e.g., QuattroPro instead of Excel) instead of Microsoft Office.

OAH also currently uses three completely independent custom database programs for different types of hearings: one for Employment Security (ACTS), one for DSHS (HATS), and one for all other hearings (CATS). The result has generally been good stand-alone programs which may be resistant to targeted attacks, but ones which require more training for new employees, make it difficult to cross-train among the different caseloads we handle, and make communication difficult with other agencies. OAH has had some success in developing small custom database programs such as CATS. However, plans to upgrade the ACTS program and move to a new ACTS 2 program have been stalled and disappointing.

OAH has an IT unit with six staff, five of whom have at least five years experience with the agency. Two of the staff do extensive programming.

Business Processes. OAH has relatively stable business processes in its eight field offices. The basic steps are the same in all offices, i.e., receive a request for hearing, send out a notice of hearing scheduling the hearing, conduct the hearing, and issue a written decision. However, the culture of the agency has been to allow relative independence of field offices, which has led to a lack of uniformity on many details of procedures. This can be a strength, using decentralized scheduling at the field office itself and allowing procedures to be tailored to local circumstances, but the lack of uniformity can also be a negative, since inconsistent procedures may be confusing to the public and to agencies which use our services statewide.

GOALS

1. **Quality.** To conduct high quality hearings and issue sound decisions.
2. **Timeliness.** To provide timely hearings and decisions.

OBJECTIVES FOR THE 2005-2007 BIENNIUM

Quality

- 1.1 Continue to meet or exceed quality standards for 90% of hearings and decisions based on random quarterly samples.

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- 1.2 Continue to obtain 80% positive satisfaction ratings from periodic customer satisfaction surveys.
- 1.3 Continue to obtain ratings of 4 or higher in standardized Department of Personnel surveys of employee satisfaction conducted every three years (last done October 2001).
- 1.4 Implement technology, such as digital recording and development of unified consistent database software, to improve quality of decisions.

Timeliness

- 2.1 Complete 80% of all cases within 90 days of filing the appeal.
- 2.2 Complete 60% of unemployment insurance benefit cases within 30 days of filing the appeal, pursuant to U.S. Department of Labor timeliness standards.
- 2.3 Complete 95% of unemployment insurance benefit cases within 90 days of filing the appeal, pursuant to U.S. Department of Labor timeliness standards.
- 2.4 Comply with new U.S. Department of Labor timeliness standards, currently under development.
- 2.5 Reduce length of time appellants have to wait in non-unemployment cases before hearings are scheduled. DSHS hearings should be scheduled so the first set occurs within 30 days of when OAH receives the case.
- 2.6 Implement technology, such as voice recognition software, to reduce time required to process decisions.

STRATEGIES

Quality

Quality Control, Risk Management, Best Practices

- 1.1 Continue to apply USDOL quality standards to randomly selected unemployment cases and to apply comparable quality standards to other caseloads on a quarterly basis. Senior ALJs are responsible to review the tapes of hearings and resulting written decisions and assign points based on federal requirements.

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- 1.2 Continue to use feedback from customer satisfaction surveys and employee satisfaction surveys to identify areas most in need of improvement. Conduct customer surveys annually and employee surveys at least every three years. Tailor survey instruments to raise selected new issues while also maintaining comparability for comparisons between years. Provide feedback to ALJs and to field offices on results.
- 1.3 Improve quality control. Develop checks on quality of decisions by more consistent proofreading, use of more standardized formats, availability of legal research tools to verify current law, and easier access to sample decisions on different topics. Systematize evaluation of ALJs and spot-checking of decisions in field offices by Senior ALJs. This may require some reduction of the caseload assigned to Senior ALJs.
- 1.4 Standardize selected procedures through communication of best practices and use of style book to increase uniformity among field offices and individual ALJs, including consistent formats of orders and decisions, elimination of individual letterheads, increased use of templates for orders and decisions, consistent protocols for marking exhibits, and more consistent guidelines for use of interpreters.
- 1.5 Study and institute additional risk management procedures to reduce errors of inadvertent disclosure of sensitive information, such as confidential addresses in DSHS address disclosure cases.
- 1.6 Monitor procedures and facilities to ensure safety in hearing rooms.
- 1.7 Establish systematic protocols for use of Alternative Dispute Resolution (ADR), such as OAH-provided mediation or settlement judges, in appropriate cases identified in prehearing conferences. Potential targets include special education, DSHS licensing, DOL, some LCB, labor-dispute unemployment cases, and some other agency cases. ADR activities should be considered part of the OAH hearing process and should not be broken out as a separate activity.
- 1.8 As volume of existing caseloads diminishes, explore opportunities for increasing services to higher education and to local government.

Training

- 1.9 Provide inter-agency in-state training by the Network of Adjudicatory Agencies and other alternative forms of training for ALJs and supplement with national conferences or the National Judicial College for at least two ALJs per year.

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- 1.10 Improve overall agency training by increasing priority for practical training. Provide more uniform orientation for new employees, encompassing in-person training, training modules available on the Intranet, and more First In Touch training for support staff to understand the overall role of OAH and principles of due process hearings. Improve personnel evaluation process to identify expectations better and provide appropriate training for individuals to enable meeting expectations. Increase use of peer group meetings for training, including restoring cycle of statewide all-staff meeting one year and separate statewide ALJ and support staff meetings in alternate years.
- 1.11 Provide cross-training on essential functions for key support staff positions to ensure continuity and provide for succession planning, both in headquarters and in field offices.
- 1.12 Evaluate need for specialized ALJ panels and develop as necessary. Improve quality by maintaining panels of ALJ specialists for recurrent special caseloads, and providing training to panels on law and regulations specific to the caseload.
- 1.13 Increase legal resources for ALJs. Develop procedures for maintaining useful library of selected model or significant decisions for use by other ALJs. Provide functional library of decisions to include all decisions available statewide. Increase research capability of ALJs by providing more training on use of Lexis/Nexis electronic legal research. Develop efficient means of updating ALJs on advance sheets for current cases.

Human Resources

- 1.14 Maintain a labor force, including ALJs, that is representative of the diversity of the public appearing in hearings and of the residents of the state.
- 1.15 Expand performance evaluation of exempt employees beyond Executive Management Team and Senior ALJs to apply to individual ALJs who do not presently receive annual performance evaluations.
- 1.16 Maintain quality of workforce through implementation of Washington Works (Civil Service Reform, Collective Bargaining, Contracting Out, HRMS), including providing training on Washington Works for staff and planning for succession in hard-to-replace positions.

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- 1.17 Retain key ALJ and support staff positions by developing and implementing salary survey or study for ALJs, career ladder for ALJs and key support staff, or other means to promote and compensate employees appropriately.
- 1.18 Expand use of telecommuting by ALJs to contribute to morale, reduce travel times, and reduce need for office space (office-sharing).

Technology

- 1.19 Develop pilot project for video hearings as alternative to telephone hearings and evaluate satisfaction of parties and agencies with system.
- 1.20 Implement system of digital recording to replace cassette tapes as the medium for preserving the record of hearings.
- 1.21 Select base software and develop specifications for customizing a single data base application to establish a consistent and uniform system for different agency caseloads, ultimately replacing ACTS, HATS, and CATS case tracking systems. Enhance interagency communication and reduce need for specialized training by moving overall technology to systems more compatible with the rest of state government, such as MS Office instead of Corel Suite.

Timeliness

- 1.1 Facilitate filing of appeals by providing electronic alternative for DSHS appellants who may appeal directly to OAH. (Most other appellants are required to file appeals with other agency.)
- 1.2 Reduce length of wait for appellants for scheduling to receive a hearing date by monitoring delays and providing adequate ALJ capacity to fill schedules.
- 1.3 Improve Management Information System to continuously monitor and adjust workload between field offices and major caseloads, including arrangements for distribution of cases from ESD telecenters, to reflect changing workload patterns.
- 1.4 Continue cross-training ALJs to allow transfer of assignments between caseloads to respond to fluctuations in volume in different caseloads.
- 1.5 Reduce or eliminate use of full-time temporary and pro tem ALJs for regular on-going caseload, while continuing to accommodate workload by using them for peak workloads. (Most current full-time temporary ALJs are likely to become permanent ALJs prior to the 05-07 biennium.)

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- 1.6 Implement voice recognition software on more widespread basis by ALJs, reduce processing time in use of dictation and word processing, and utilize support staff in other capacities.
- 1.7 Resume discussions with Employment Security about when to implement GUIDE interface computer program and other pilot projects, such as using imaging system to store exhibits.
- 1.8 Reevaluate potential to issue decisions by email or internet, including customer survey. Establish procedures to ensure validity and finality of decisions transmitted electronically.
- 1.9 Evaluate caseloads with lengthy hearings to find means to shorten and expedite hearings, including reviewing procedures and culture which tend to prolong hearings.

APPRAISAL OF EXTERNAL ENVIRONMENT

At the time this strategic plan is being prepared, the volume of unemployment hearings is still at record levels, but appears to have turned the corner and is at a plateau or starting to diminish. The number of unemployment hearings is totally beyond the control of OAH and is related to the overall state economy, the unemployment rate, the impact of the new unemployment law effective in January 2004, and the capacity of ESD to process and adjudicate claims.

According to ESD calculations, ESD non-monetary determinations will diminish from the current 20-22,000 per month to 16-17,000 throughout the 2005-07 biennium and the appeal ratio will drop from the current 16% to 13-14%. If this were to come about, the OAH "unemployment benefits" caseload would be reduced to around 28,500 per year. These figures do not include various unemployment tax-related hearings, the volume of which are unknown due to the new unemployment law. These projections compare with actual OAH intake of unemployment benefits cases of 37,949 in CY 2003. This would be a return to the level of unemployment appeals prior to the dot.com collapse and 9/11/01.

OAH has no independent basis to project caseload, but based on historical patterns, we suspect that the volume of unemployment appeals will not diminish this rapidly or fall that far. The new unemployment law adds significant uncertainty. ESD will deny benefits to more claimants under the new law, which will tend to increase the number of appeals. On the other hand, outcomes are likely to be more certain under the new law, which may tend to diminish the number of appeals. Since the new law only took effect

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in January 2004, we do not have enough experience to make any conclusions on its impact on the volume of unemployment appeals.

It is also difficult to assess what impact the improving economy and lower unemployment rates will have on the DSHS caseload. As the economy struggled in Washington State and the volume of unemployment appeals grew from March 2001 to September 2003, the volume of appeals to OAH on public assistance cases gradually increased (at a much lower rate than unemployment appeals), as might be expected. However, in the last six months, as the volume of unemployment appeals began to decline, the number of public assistance cases increased even faster. Moreover, it is unknown what other major components of DSHS appeals, such as child support and licensing, will do in relationship to the economy.

Other major variables in the external environment have had significant impacts on OAH staffing and caseloads, but are difficult to predict. For example, electrical energy supplies and costs have had a huge impact on the Energy Facilities Site Evaluation Council, which in turn has contracted with OAH to provide the presiding ALJ during its hearings and deliberations. A single EFSEC case (Sumas Energy 2 Generation Facility) consumed more than 2000 hours of ALJ time over two years in FY 2001-02. Other EFSEC cases were then anticipated and OAH prepared for them, but some were completely withdrawn as the energy market changed. OAH will handle all appeals of contracting out under the new Washington Works law. Although there is no experience to predict volume, this new caseload is not expected to be large.

TRENDS IN CUSTOMER CHARACTERISTICS

The dominant trend in unemployment hearings has been the rapidly escalating volume of appeals through September 2003, which now appears to have reached a plateau or begun to decline. Since January 2002, the consistent 35-50% volume increase over the previous year had been the major driver in OAH operations. Virtually all agency efforts have been dominated by attempts to deal with changes in volume.

The trend in DSHS cases has also been an increased appeals caseload, although not as great as with unemployment. Unlike unemployment, this caseload appears to be increasing still. Another significant trend in the SHS caseload continues to be more complexity of cases and longer hearings, as well as the switch to issuing final decisions, which requires the additional process of considering motions for reconsideration.

Caseloads from other agencies also have typically been steady or declined, but the complexity of the case and length of hearing has generally increased. The overall volume of SPI cases increased by 21.6% in FY 2002 and by 9.1% in FY 2003; lengthy and complex special education cases are steadily increasing by 12.2% per year. Liquor

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Control Board cases have remained steady and Department of Licensing cases have diminished in number.

STRATEGY AND CAPACITY ASSESSMENT

See discussion under section on Internal Resource Assessment: Strengths and Weaknesses. The impacts of civil service reform are also discussed under Strategies: Human Resources and the impacts of technology under Strategies: Technology. OAH does not anticipate any major new contracting out, although we may return to the historic practice of contracting out for the development of new database software. The major impact of the contracting out law is that OAH provides the appeals mechanism under the statute.

PERFORMANCE ASSESSMENT

OFM only uses two of OAH's performance measures: the percentage of randomly selected cases meeting or exceeding U.S. Department of Labor standards for unemployment insurance benefits and decisions (goal of 90%) and the percentage of unemployment insurance benefits cases completed within 45 days of the date the appeal was filed (goal of 80%). Actual results from the third quarter of FY 04 were 100% and 87.3% respectively. Biennium-to-date results are 98% and 87.4% respectively. In comparison to the most currently available national data (year ending March 31, 2003), OAH's averaged 98.7% for quality compared to the national average of 95.1% and 84.7% for 45-day dates compared to the national average of 73.3%.

FINANCIAL HEALTH ASSESSMENT

OAH is a revolving fund agency which currently receives ongoing revenue from five state agencies (Employment Security, DSHS, SPI, Liquor Control Board, Department of Licensing) and is paid on an hourly basis by other agencies. Less than 20% of the OAH budget derives from the General Fund-State (primarily the state-funded portion of the DSHS caseload).

A major issue is arising with ESD over the federal Resource Justification Model (RJM), which has had the effect of significantly reducing federal funding for ESD to administer the unemployment program, including the lower appeals function which OAH performs. There was far more conflict in negotiating a budget agreement for FFY 04 between ESD and OAH than ever before. There were also misunderstandings between agencies in the submission of OAH decision packages during the supplemental budget process for 2004. While both agencies hope to resolve these conflicts and misunderstandings, the underlying problem is the severe squeeze to both agencies caused by RJM. ESD and OAH have both used short-term fixes to respond to the RJM cuts. The problem will get

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much worse if OAH ALJs get a significant salary increase (given that they were 32.5% below the benchmark in 2001), because RJM theoretically only recognizes actual salaries from two years earlier. Thus, OAH could face the situation where ALJs conducting unemployment hearings are entitled to much higher salaries, but ESD will not provide any funds through RJM to pay for them. A similar problem could arise with replacing aging computer infrastructure, which may not be funded under RJM.

COST REDUCTION STRATEGIES

See discussion under Long-term Trends: Vision for Agency in the Year 2011: Colocation of Olympia Offices (p. 4) and Increased Efficiencies (pp. 6-7). See also discussion under Caseload Trends; Changes in Current Biennium: Budget reductions (p. 11).

DISCUSSION OF MAJOR PARTNERS

The major partners of OAH are expected to continue to be Employment Security and DSHS. With both of these client agencies, the division of functions between the agency and OAH has been relatively simple, but is becoming more complex. In typical cases, an individual is dissatisfied with a decision by the client agency and files an appeal, either through the client agency or directly to OAH. OAH then is responsible for scheduling and conducting the hearing and issuing a decision.

ESD issues. Other issues which relate to ESD, in addition to long-term changes in the allocation method for federal funds (RJM), diminishing unemployment caseload, and implementation of the new unemployment statute, include resumption of efforts for a GUIDE interface to transfer information electronically between ESD and OAH and imaging of exhibits and documents to transfer and store them electronically.

DSHS issues. Other DSHS issues include the impact of new jurisdictions and increasingly complex cases, such as the CARE assessment tool and Adult Protective Services.

RISKS, OBSTACLES, AND OPPORTUNITIES

Torts: OAH has instituted extensive training of managers and supervisors, including requiring HELP Academy training for all new supervisors. Potential liability to employees is likely to center around repetitive stress injuries relating to work at computer stations. Voice recognition software for ALJs to replace dictation may also reduce long-term risk to support staff for these injuries.

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Washington Works: OAH is in a very vulnerable position for implementation of Washington Works, particularly civil service reform and HRMS. Although we are a relatively large “small agency” with headcount of 176 employees, we are heavily decentralized in field offices which do the work of conducting hearings and which are not directly involved with HR and payroll issues. At this time, we have a single management position for Financial/Human Resources Manager, a single Human Resources Consultant 1 in the HR unit, and four staff in the fiscal/facilities/purchasing unit. The demands for HRMS and civil service reform are steadily increasing, but we do not have adequate resources to keep up with the demands.

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